

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ALBERTO DELARA, on behalf of himself and others similarly situated,

Plaintiff,

V.

DIAMOND RESORTS INTERNATIONAL
MARKETING, INC.,

Defendant.

Case No. 2:19-cv-00022-APG-NJK

Order and Judgment Granting Final Approval of the FLSA Collective Action Settlement

[ECF No. 206]

10 On October 3, 2022, the plaintiff filed his Unopposed Motion for Final Approval of the
11 FLSA Collective Action Settlement and Supporting Memorandum. ECF No. 206. Good cause
12 appearing, I grant the motion.

I THEREFORE ORDER that the plaintiff's Motion (ECF No. 206) is GRANTED.

14 I approve the terms and conditions of the parties' settlement as set forth in the Settlement
15 Agreement and Release (ECF No. 206-1) (the Agreement). I find that the defendant's payment
16 of the gross settlement in the amount of \$1,159,137.00 is a fair and reasonable compromise and
17 settlement of the plaintiff's and FLSA Collective Action Members'¹ claims in this action arising
18 under the Fair Labor Standards Act (FLSA).

¹ The Agreement defines “FLSA Collective Action Members” as “[a]ll individuals who have filed a notice of consent to join this Lawsuit, and did not subsequently withdraw such notice of consent and/or who the Court has not dismissed, who, at any time since August 20, 2016, were employed by [Defendant] as a Concierge or Marketing Supervisor.” See ECF No. 206-1, Agreement, ¶ 9. Currently, there are 207 FLSA Collective Action Members who remain in this lawsuit and are subject to the Agreement and settlement.

1 I find that the parties' settlement is a fair and reasonable resolution of disputes over
2 FLSA provisions. First, the three-and-one-half-year history of the case, with over 200 filings,
3 demonstrates a bona fide dispute. Second, there is no evidence of collusion, and the settlement is
4 the result of arms-length negotiations between experienced counsel representing the interests of
5 both sides and with the assistance of private mediator David Rotman. Finally, as fully outlined
6 in the plaintiff's motion and the declaration of Martin Holmes (ECF No. 206-2), the settlement
7 confers a substantial benefit to all FLSA Collective Action Member similarly situated to the
8 plaintiff, considering the strength of their claims; the risk, expense, complexity and duration of
9 further litigation; the risk of maintaining collective action status throughout the trial; the amount
10 offered in the settlement; the extent of discovery completed and the stage of the proceedings; and
11 the experience and views of Class Counsel.

12 I approve plaintiff Alberto Delara's request for an Incentive Award in the amount of
13 \$20,000.00. The amount requested is fair and reasonable based on the time Delara spent on the
14 litigation, the risks and burdens he carried as a result of the litigation, the particular benefit he
15 provided to FLSA Collective Action Members as a whole throughout the litigation, and his
16 general release of all claims against the defendant.

17 I approve the plaintiff's request for attorney's fees in the amount of \$620,801.50. The
18 amount is fair and reasonable in light of the lodestar method in allocating the Gross Settlement
19 Amount in this case.

20 I approve the plaintiff's request for costs in the amount of \$125,059.00. The amount is
21 fair and reasonable.

22 I approve KCC Class Action Services, LLC (KCC) to serve as the Settlement
23 Administrator, with administration costs not to exceed \$19,500.00. Settlement administration

1 costs will be paid out of the Gross Settlement Amount. If the settlement administrator costs are
2 less than \$19,500.00, the difference will be added to the Net Settlement Amount.

3 I approve the proposed apportionment of the Gross Settlement Amount and Net
4 Settlement Amount as set forth in the Agreement. This apportionment is fair and reasonable.

5 I lift the stay of the case as to FLSA Collective Action Members who were subject to the
6 defendant's arbitration agreement and compelled to submit their claims to arbitration as reflected
7 in my December 27, 2021 Order. ECF No. 181.

8 DATED this 7th day of October, 2022.



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10 ANDREW P. GORDON
11 UNITED STATES DISTRICT JUDGE
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